

PENALTY ABATEMENT

To better serve you, the Arizona Department of Revenue offers online assistance and filing of your business taxes. To file your taxes online or to register to use the website, go to www.aztaxes.gov.

This publication is for general information only. It is designed to assist taxpayers to better understand the process of requesting abatement of penalties. For complete details, refer to the Arizona Revised Statutes and the Arizona Administrative Code. In case of inconsistency or omission in this publication, the language of the Arizona Revised Statutes and the Arizona Administrative Code will prevail.

Arizona administers a penalty system designed to ensure a fair and consistent program of tax compliance. It is the Department of Revenue's goal, through consistent handling of abatement requests, to ensure fair and equal treatment for all taxpayers.

The following will assist a taxpayer when considering a request for penalty abatement. Keep in mind, a decision by the department is based on information and evidence provided by you, the taxpayer. A prompt and consistent reply can be achieved if the department receives documented and specific information with your request.

What is the Basis on Which Penalties Can be Abated?

Statutes provide that the department may abate penalties for reasonable cause. The presumption of reasonable cause is that the taxpayer uses ordinary business care and prudence in the handling of filing and payment of their taxes. Generally, this means a taxpayer has a good filing and payment history with the department, the condition which created the assessment is not a chronic problem with that taxpayer, and there are specific reasons why this particular return was not filed and paid timely.

Who May Request Abatement of Penalties?

Anyone who files either a personal income or business tax return and is assessed a penalty. If there is potential for reasonable cause, you should write to the department and provide specific information on the incident or event causing the penalty assessment.

If a taxpayer was audited by the department, and penalties were assessed, an abatement request should be submitted in writing to the appropriate audit unit. These guidelines are for system assessed penalties only.

Situations Where Reasonable Cause May Exist:

1. Honest mistakes or errors.
A mathematical error on a timely filed tax return.
Circumstances beyond the control of the taxpayer while using reasonable and prudent business practices.
2. Unexpected illness or unavoidable absence of the person who has sole authority to execute a return.

"Unavoidable absence" is defined as an absence which is incapable of being prevented.

3. Death.

Delay caused by the death of a taxpayer or member of immediate family.

In cases of individuals or business, a reasonable time frame should apply for filing the return and payment of tax, along with a copy of the death certificate.

4. Absence of records

The taxpayer is unable to obtain records necessary to determine the amount of tax due for reasons beyond the taxpayer's control.

"Reasons beyond the taxpayer's control" is defined as those conditions or events which occur outside the taxpayer's authority.

There may be other reasons for consideration to abate penalties. An example is a taxpayer who experienced an unusual event over which they had no control, such as a fire, flood, or earthquake, that caused a return to be filed late. This taxpayer has been licensed for a few years and filed and paid taxes timely during that period.

Reasonable cause may exist if laws have changed during the taxpayer's period of operation.

Situations Where Reasonable Cause May NOT Exist:

1. Lack of funds or financial setback
This is not sufficient cause to abate penalties. The presumption is if the taxpayer has a tax liability, they are expected to pay the tax timely.
2. Ignorance of the law
This in itself is not cause to abate penalties. The taxpayer has the responsibility to be knowledgeable of the laws under which they operate.
3. Delegation of duties
Businesses should exercise caution when delegating responsibilities to insure job assignments are carried through and controls are in place to assure the timely filing and payment of taxes. It is not reasonable cause for an owner/taxpayer to claim they were unaware the employee filed or paid taxes late.

When May I File a Request for Abatement?

A request for abatement of penalties may be filed anytime after penalties are imposed.

How May I File a Request for Abatement?

All requests for abatement of penalties must be in writing. Include the specific period(s) that should be considered and an explanation as to why a penalty should be abated. Clear and concise information will allow for a prompt reply by the department. Sign, date,

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and provide a telephone number with your request and include your tax identification or social security number. Any documentation that supports your request should be included with the correspondence.

Where Should an Abatement Request be Filed?

Requests for abatement of penalties should be mailed to:

Arizona Department of Revenue
Penalty Review Unit
1600 W Monroe
Phoenix AZ 85007

Once a request for penalty abatement is received, it will be reviewed on a first come, first served basis. A decision will be rendered and a letter sent to the taxpayer within 45 days of receipt of the request.

The Penalty Review Unit will review each request independently and determine if reasonable cause exists, based on the information provided in the taxpayer's letter.

The department does not accept penalty abatement requests or render decisions by telephone. Requests by fax will be accepted. The fax number is (602) 542-2072. General questions on penalty abatement, for non-audit periods, can be obtained by calling (602) 716-7802. If a third party is assisting a taxpayer, a current Power of Attorney must be filed with the Department of Revenue.

Appeals

The taxpayer has 90 days from the date of a denial to appeal an income tax related decision. On all other taxes, the taxpayer has 45 days.

Hearings on Transaction Privilege Tax will be conducted by the Office of Administrative Hearings, an independent state agency. Hearings for all other tax types will be held at the Department of Revenue, hearing office.

For Additional Information, call:

Phoenix
(Transaction Privilege Tax) (602) 255-2060
Toll free from area codes 520 & 928 ... (800) 843-7196
Phoenix
(Income Tax) (602) 255-3381
Toll free from area codes 520 & 928 ... (800) 352-4090

For Hearing Impaired - TDD only:

Phoenix (602) 542-4021
Toll-free from area codes 520 & 928 .. (800) 397-0256

For Related Tax Information:

Internet Address www.revenue.state.az.us
Recorded Tax Information (602) 542-1991
Toll free from area codes 520 & 928 ... (800) 845-8192
Forms by Mail (602) 542-4260
Forms by Fax (602) 542-3756

Or Write to:

Arizona Department of Revenue
Taxpayer Information & Assistance
1600 W Monroe
Phoenix AZ 85007

This publication is available in an alternative format upon request.